



Patrick W. Henning, Director  
August 22, 2008  
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Arnold Schwarzenegger  
Governor

Mr. Earl Johnson, Senior Policy Advisor  
City of Oakland, Office of the Mayor  
1 Frank H. Ogawa Plaza, Third Floor  
Oakland, CA 94612

Dear Mr. Johnson:

WORKFORCE INVESTMENT ACT  
FISCAL AND PROCUREMENT REVIEW  
FINAL MONITORING REPORT  
PROGRAM YEAR 2007-08

This is to inform you of the results of our review for Program Year (PY) 2007-08 of the City of Oakland's Workforce Investment Act (WIA) grant financial management and procurement systems. This review was conducted by Mr. David Hinojosa from February 25, 2008, through February 29, 2008. For the fiscal portion of the review, we focused on the following areas: fiscal policies and procedures, accounting system, reporting, program income, expenditures, internal control, allowable costs, cash management, cost allocation, indirect costs, fiscal monitoring of subrecipients, single audit and audit resolution policies and procedures for its subrecipients and written internal management procedures. For the procurement portion of the review, we examined procurement policies and procedures, methods of procurement, procurement competition and selection of service providers, cost and price analyses, and contract terms and agreements and property management.

Our review was conducted under the authority of Section 667.410(b)(1), (2) & (3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by the City of Oakland with applicable federal and state laws, regulations, policies, and directives related to the WIA grant regarding financial management and procurement for PY 2007-08.

We collected the information for this report through interviews with representatives of the City of Oakland a review of applicable policies and procedures, and a review of documentation retained by the City of Oakland for a sample of expenditures and procurements for PY 2007-08.

Because the City of Oakland did not respond to the draft monitoring report, we are releasing it as the final report. Therefore, findings 1, 2, 3, 4, and 5 remain unresolved

and are assigned Corrective Action Tracking System (CATS) numbers 80139, 80140, 80141, 80142, and 80143, respectively.

## **BACKGROUND**

The City of Oakland was awarded WIA funds to administer a comprehensive workforce investment system by way of streamlining services through the One-Stop delivery system. For PY 2007-08, the City of Oakland was allocated: \$2,088,632 to serve 472 adult participants; \$2,112,675 to serve 477 youth participants; and \$1,274,870 to serve 337 dislocated worker participants.

The City of Oakland designated the Oakland Private Industry Council (OPIC) to administer the WIA program and to act on the City of Oakland's behalf for reporting and program oversight of the WIA. The OPIC is responsible for submitting participant and expenditure reports to the State. However, it is the City of Oakland Fiscal Department who is responsible for submitting cash requests to the State and for conducting fiscal oversight of its subrecipients (including OPIC).

For the quarter ending December 31, 2007, the City of Oakland reported the following expenditures and enrollments for its WIA programs: \$972,375 to serve 323 adult participants; \$759,191 to serve 352 youth participants; and \$499,337 to serve 219 dislocated worker participants.

## **FISCAL REVIEW RESULTS**

While we conclude that, overall, the City of Oakland is meeting applicable WIA requirements concerning financial management, we noted instances of noncompliance in the following areas: Workforce Investment Board (WIB) responsibilities, payroll, and expense payments. The findings that we identified in these areas, our recommendations, and the City of Oakland's proposed resolution of the findings are specified below.

### **FINDING 1**

**Requirement:** WIA section 117(d) states, in part, that the functions of the local board shall include the following:

- Identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis.
- Identify eligible providers of intensive and training services.

- Develop a budget for the purpose of carrying out the duties of the local board.
- Work with the local grant recipient to disburse funds for workforce investment activities pursuant to the requirements of this title, if the direction does not violate a provision of this Act.
- Conduct oversight with respect to local programs of youth activities, local employment and training activities, and the one-stop delivery system.
- Negotiate local performance measures.
- Assist in developing statewide employment statistics system.
- Coordinate the workforce investment activities with economic development strategies and develop other employer linkages with such activities.
- Promote participation of private sector employers in the statewide workforce investment system and ensure effective provision of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator or through other organizations, to assist employers in meeting hiring needs.
- Make available to the public, on a regular basis through open meetings, information regarding the activities of the local board, including information regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth activities, and on request, minutes of formal meetings of the local board.
- Establish a youth council appointed in cooperation with the chief elected official for the local area.

20 CFR 661.305(a)(b)(d) states, in part, that (a) the Local Board is responsible for: (1) Selecting One-Stop operators with the agreement of the chief elected official; (2) Maintaining a list of eligible providers with performance and cost information, and (3)

Assisting the Governor in developing the Statewide employment statistics system under the Wagner-Peyser Act.

**Observation:**

We reviewed the City of Oakland's list of WIB meetings and noted the last WIB meeting occurred on June 28, 2007 and it is unclear if the WIB has carried out its statutory responsibilities. We also noted that six ad hoc committee meetings and one executive meeting occurred on October 18, 2007. However, the City of Oakland was unable to provide any minutes to the meetings referred above or any documentation showing items discussed, actions taken, or decisions made. As a result, it appears that the City of Oakland is not able to ensure that its WIB can carry out the responsibilities under WIA.

**Recommendation:**

We recommended that the City of Oakland provide the Compliance Review Division (CRD) with a corrective action plan (CAP), including a timeline, stating how it will meet the statutory and regulatory requirements to have a WIB that will carry out the responsibilities delineated above.

**City of Oakland Response:**

The City of Oakland did not respond to the draft monitoring report.

**State Conclusion:**

Because the City of Oakland did not respond to our draft monitoring report, we cannot resolve this issue. We will consider resolving this issue when the City of Oakland submits to CRD the documentation requested above. Until then, this issue remains open and has been assigned CATS number 80139.

**FINDING 2**

**Requirement:**

29 CFR 97.20(a) states, in part, that fiscal control and accounting procedures of subgrantees must be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Section (b)(2) states, in part, that subgrantees must maintain records which adequately identify the source and application of funds for financially-assisted activities. Section (b)(6) requires that accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records.

Office of Management and Budget (OMB) Circular A-87, Attachment B (8)(h)(5) states, in part, that personnel activity reports or equivalent documentation must reflect an after-the-fact

distribution of the actual activity of each employee. They must be prepared at least monthly, coincide with one or more pay periods, and be signed by the employee.

**Observation:** We found that the City of Oakland does not ensure that staff time charges reflect an after-the-fact distribution of actual activity. Specifically, one City of Oakland staff is charging 100-percent of his time to WIA fund account 2195, yet he states he also performs non-WIA activities such as monitoring the Community Development Block Grant (CDBG) program. Another City of Oakland employee is charging 100-Percent to non-WIA activities, yet he conducts WIA activities such as fiscal monitoring of WIA contracts.

**Recommendation:** We recommended that the City of Oakland identify the employees who perform WIA activities and redistribute the costs according to the benefits received by the program. We stated that the review and redistribution of costs must be for PY 2007-08 (July 1, 2007 to the present). Once completed, we recommended that the City of Oakland provide CRD documentation of the results and actions taken.

**City of Oakland Response:** The City of Oakland did not respond to the draft monitoring report.

**State Conclusion:** Because the City of Oakland did not respond to our draft monitoring report, we cannot resolve this issue. We will consider resolving this issue when the City of Oakland submits to CRD the documentation requested above. Until then, this issue remains open and has been assigned CATS number 80140.

### **FINDING 3**

**Requirement:** OMB Circular A-87, Attachment A, Section (c)(3)(a) states, in part, that a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance to the relative benefits received.

The Department of Labor Financial Management Technical Assistance Guide, Part II, Chapter 8, states, in part, that allocation bases should measure actual cost or effort expended. Methodologies which are based on relative funds available or on predetermined data are unacceptable.

29 CFR 97.20(a) states, in part, that fiscal control and accounting procedures of subgrantees must be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Section (b)(2) states, in part, that subgrantees must maintain records which adequately identify the source and application of funds for financially-assisted activities. Section (b)(6) requires that accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records.

**Observation:**

We reviewed three WIA expenditures that were not adequately documented by the City of Oakland. With the first expenditure, we reviewed a payment of \$1,200 for professional services with Calloway & Associates. We were able to trace this payment to account number 53719 under the project G207710 which is a CEDA expense for miscellaneous services under "Business and Professional Services". After repeated requests, the City of Oakland failed to provide a copy of this contract for review.

The second expenditure reviewed was for a payment of \$9,000 for annual dues to the California Workforce Association. This was traced to account number 55312 under the project G200710 which is a CEDA expense for memberships and dues.

The third expenditure reviewed was for a payment of \$3,649.75 for 200 Memory Books for the Mayor's Summer Jobs Program. We were able to trace this payment to the account number 56312 under the project G207710 which is a CEDA expense for duplicating services. We were not able to trace any of these expenses further to determine how the costs were distributed.

The City of Oakland staff stated that the costs under project G2207710, except for Business and Professional Services, are charged according to the percentages taken from the pre-determined WIA Budget Worksheet for Subgrant Agreement R865475 which proportioned out budgeted costs in percentages based on amounts budgeted from WIA Title I Adult Formula (201 and 202), WIA Title I Youth Formula (301 and 302), and WIA Title I Dislocated Worker (501 and 502). A funding source category "Business and Professional Services" was listed separately without a percentage and budgeted directly to CEDA under the Program category.

**Recommendation:** We recommended that the City of Oakland reallocate the above costs based on relative benefits received and provide documentation of its actions to CRD. We also recommended that the City of Oakland provide CRD with a CAP stating how it will ensure, in the future, that costs allocated to multiple cost objectives are based on relative benefits. We further recommended that the City of Oakland provide to CRD the Calloway and Associates contract for review as supporting documentation to the costs charged to the WIA program.

**City of Oakland Response:** The City of Oakland did not respond to the draft monitoring report.

**State Conclusion:** Because the City of Oakland did not respond to our draft monitoring report, we cannot resolve this issue. We will consider resolving this issue when the City of Oakland submits to CRD the documentation requested above. Until then, this issue remains open and has been assigned CATS number 80141.

#### **PROCUREMENT REVIEW RESULTS**

While we concluded that, overall, the City of Oakland is meeting applicable WIA requirements concerning procurement, we noted instances of noncompliance in the following areas: cost/price analysis and contracts. The findings that we identified in these areas, our recommendations, and the City of Oakland's proposed resolution of the findings are specified below.

#### **FINDING 4**

**Requirement:** 29 CFR 95.45 states, in part, that a cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

**Observation:** We found that OPIC did not conduct a cost/price analysis for ten contract modifications effective July 1, 2007. Specifically, OPIC extended one contract for adult services, three contracts for services at affiliate sites, and one contract for special populations to June 30, 2008, increasing funding for each contract. In addition, OPIC modified five youth contracts that are set to expire on June 30, 2008, by allocating funding in the same amounts as the previous year.

**Recommendation:** We recommended that OPIC provide a copy of each cost/price analysis conducted for the above contracts, if they were conducted, and provide a copy to CRD or provide a CAP to CRD that describes how they will ensure that a cost/price analysis will be conducted for all future modified contracts.

**City of Oakland Response:** The City of Oakland did not respond to the draft monitoring report.

**State Conclusion:** Because the City of Oakland did not respond to our draft monitoring report, we cannot resolve this issue. We will consider resolving this issue when the City of Oakland submits to CRD the documentation requested above. Until then, this issue remains open and has been assigned CATS number 80142.

#### **FINDING 5**

**Requirement:** 29 CFR 97.36(b)(1) states, in part, grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this Section.

29 CFR 97.36(i)(1-13) outlines the provisions that must be included in grantee's and subgrantee's contracts.

29 CFR 97.36(b)(2) states, in part, that grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts.

**Observation:** We found that the City of Oakland never completed a contract for a competitive procurement which was awarded to OPIC as Systems Administrator and as One-Stop Operator for the City of Oakland. The City of Oakland does not have a contract or any other document that accounts for the funds released to OPIC to perform activities of a One-Stop Operator and the Systems Administrator for the Oakland local workforce investment area. Although called the Systems Administrator for the City of Oakland LWIA, it appears that OPIC is performing the duties of the administrative entity for the Oakland LWIA. Although the City of Oakland staff conduct fiscal monitoring of OPIC, there is no contract administration system in place to ensure that OPIC performs in accordance with the above requirements.

The City of Oakland had Memorandums-of-Understanding (MOUs) with OPIC as the One-Stop Operator and System Administrator that expired on June 30, 2005, that OPIC staff stated they are currently following. Except for termination for cause, the MOUs do not contain the clauses required by Federal and executive orders and their implementing regulations. Ms. Pamela Calloway, Special Assistant for Workforce to the Mayor, states that a contract between the City of Oakland and OPIC, as Systems Administrator and One-Stop Operator, is currently under negotiation. In addition, the City of Oakland was not able to provide written procurement policies and procedures.

**Recommendation:** We recommended that the City of Oakland provide CRD with a CAP, including a timeline, to complete contracts with OPIC for Systems Administrator and for One-Stop Operator. In addition, we recommended that the City of Oakland provide CRD with a CAP, including a timeline, to create a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts and that the contracts include all required clauses and provisions referred to above. In addition, we recommended that the City of Oakland provide CRD with a copy of the contracts with OPIC and its procurement policies and procedures when they are completed.

**City of Oakland Response:** The City of Oakland did not respond to the draft monitoring report.

**State Conclusion:** Because the City of Oakland did not respond to our draft monitoring report, we cannot resolve this issue. We will consider resolving this issue when the City of Oakland submits to CRD the documentation requested above. Until then, this issue remains open and has been assigned CATS number 80143.

Please note that we consider the City of Oakland at significant risk with its WIA funds. Because the City of Oakland has no contractual relationship with OPIC and no method to hold OPIC accountable for the WIA funds provided to OPIC, we consider the City of Oakland at significant risk with its ability to protect the integrity of its WIA funds. We strongly recommend that the City of Oakland take immediate corrective action to ensure the protection of the WIA funds that it is currently releasing to OPIC without any approval and provide CRD with documentation.

We provide you up to 20 working days after receipt of this report to submit to the Compliance Review Division your response to this report. Because we faxed a copy of

Mr. Earl Johnson

-10-

August 22, 2008

this report to your office on the date indicated above, we request your response no later than September 22, 2008. Please submit your response to the following address:

Compliance Monitoring Section  
Compliance Review Division  
722 Capitol Mall, MIC 22M  
P.O. Box 826880  
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all of the areas included in our review. It is the City of Oakland's responsibility to ensure that its systems, programs, and related activities comply with the WIA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain the City of Oakland's responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact Ms. Mechelle Hayes at (916) 654-8015 or Mr. David Hinojosa at (916) 653-4322.

Sincerely,



JESSIE MAR, Chief  
Compliance Monitoring Section  
Compliance Review Division

cc: Shelly Green, MIC 45  
Jose Luis Marquez, MIC 50  
Dathan O. Moore, MIC 50  
Linda Palmquist, MIC 50